

APPEAL NO. 022257  
FILED OCTOBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 8, 2002. With respect to the issues before her, the hearing officer determined that the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the 11<sup>th</sup> quarter; that the appellant (carrier) would be relieved of liability for a portion of the 11<sup>th</sup> quarter had the claimant been found to be entitled to the benefits because of the claimant's late filing of his Application for [SIBs] (TWCC-52); and that the claimant is entitled to SIBs for the 12<sup>th</sup> quarter. In its appeal, the carrier argues that the hearing officer's determination that the claimant made a good faith effort to look for work in the qualifying period for the 12<sup>th</sup> quarter of SIBs is against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant. In addition, the claimant did not appeal the hearing officer's determinations with respect to the 11<sup>th</sup> quarter of SIBs and, as a result, those determinations have become final pursuant to Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was entitled to SIBs for the 12<sup>th</sup> quarter, which ran from June 12 to September 10, 2002. The parties stipulated that on \_\_\_\_\_, the claimant sustained a compensable injury, that his impairment rating was more than 15%, and that he did not commute a portion of his impairment income benefits. In an unchallenged finding, the hearing officer determined that the claimant's unemployment in the 12<sup>th</sup> quarter qualifying period was a direct result of his compensable injury. The hearing officer further determined that the claimant made a good faith effort to look for work in the qualifying period in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)). That issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The claimant's TWCC-52 for the 12<sup>th</sup> quarter showed that he looked for work during each week of the qualifying period, which ran from February 28 to May 29, 2002. In challenging the hearing officer's good faith determination, the carrier emphasizes the same factors it emphasized at the hearing in arguing that the claimant's search for employment was not undertaken in good faith in a genuine effort to return to work. The significance of those factors was a matter for the hearing officer, as the finder of fact, to determine. The hearing officer was acting within her province as the fact finder in rejecting the carrier's arguments and in determining that the claimant made a good faith effort to look for work in the qualifying period. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing

officer's good faith determination, or the determination that the claimant is entitled to SIBs for the 12<sup>th</sup> quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge